



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GATEWAY PROPERTY MANAGEMENT CO.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

The landlord's agent ("landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present their sworn testimony, to make submissions and to call witnesses.

The landlord's agent testified that he represents the landlord property, GPMC ("GPMC"), in this Application, and has authority to settle this dispute on its behalf. He further testified that GPMC represents TGM, the rental property, where this rental unit is located, as outlined in the written tenancy agreement.

The landlord gave sworn testimony that a 10 Day Notice to End Tenancy for Unpaid Rent, dated October 16, 2014 ("First 10 Day Notice"), was posted to the door where the tenant was residing, on October 16, 2014. The tenant testified that he received the 10 Day Notice. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on October 19, 2014, the third day after its posting.

The landlord testified that a 10 Day Notice to End Tenancy for Unpaid Rent, dated October 17, 2014 ("Second 10 Day Notice"), was posted to the door where the tenant was residing, on October 17, 2014. The tenant testified that he received the 10 Day Notice. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was

deemed served with the 10 Day Notice on October 20, 2014, the third day after its posting.

The landlord testified that he served the tenant with the Application for Dispute Resolution hearing package ("Application") on November 8, 2014, via registered mail. The tenant testified that he received the Application. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the Application on November 13, 2014, the fifth day after its registered mailing.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord testified that this tenancy began on March 1, 2014 for a fixed term ending on August 31, 2014. The tenancy then reverted to a month-to-month tenancy. Monthly rent is payable in the amount of \$1,140.00 on the first day of each month, an amount which includes \$1,100 for rent and \$40.00 for parking. The tenancy agreement states that \$25.00 for NSF fees and \$25.00 for late fees will be charged to the tenant, if applicable. A security deposit of \$550.00 was paid by the tenant to the landlord on February 26, 2014, which the landlord continues to retain in full. A written tenancy agreement was signed by both parties on February 26, 2014, and a copy was provided with the landlord's Application. The tenant continues to reside in the rental unit.

The landlord seeks an Order of Possession for non-payment of full rent for the months of April, October and November 2014. In his First 10 Day Notice, the landlord indicated unpaid rent for October 2014 in the amount of \$1,140.00 plus additional amounts for late charges and NSF fees. The landlord's Application states that an additional \$50.00 was charged for these NSF and late fees. The tenant agreed and testified that he owes a total of \$1,190 in unpaid rent, NSF and late fees for October 2014.

In his Second 10 Day Notice, the landlord indicated unpaid rent for April 2014 in the amount of \$1,140.00. The landlord states that he was only informed of this unpaid rent in October 2014, due to an accounting error. The tenant agreed and testified that he is

aware of the above error and that he owes a total of \$1,140.00 in unpaid rent for April 2014.

The landlord stated in his Application that November 2014 rent in the amount of \$1,140.00 was still unpaid. He testified that NSF fees and late charges in the amount of \$50.00 were also unpaid for November 2014. The tenant agreed and testified that he owes a total of \$1,190.00 in unpaid rent, NSF and late fees for November 2014.

In total, the landlord seeks a monetary order of \$3,520.00 total. The tenant does not dispute that he owes \$3,520.00 total, to the landlord. The tenant testified that he has had difficulty making his rent payments, due to his current job situation.

The landlord also seeks to recover the filing fee of \$50.00 for the application from the tenant.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

The landlord and tenant agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on November 30, 2014, by which time the tenant will have vacated the rental unit;
2. The landlord agrees to accept the reduced amount of \$3,000.00 in lieu of \$3,520.00, from the tenant, for unpaid rent for April 2014 and unpaid rent, late charges and NSF fees for October and November 2014.
3. The tenant agreed to pay the landlord the total amount of \$3,000.00 as follows: \$1,500.00 by December 31, 2014 and another \$1,500.00 by January 31, 2015.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties.

Conclusion

To give effect to the settlement reached between the parties, I issue the attached Monetary Order of \$3,000.00 to be used by the landlord **only** if the tenant does not abide by the monetary terms set out in the above agreement. The landlord is provided with this Order in the above terms and the tenant must be served with this Order in the event that the tenant does not abide by the monetary terms set out in their agreement. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

To give effect to the settlement reached between the parties, I issue the attached Order of Possession to be used by the landlord **only** if the tenant fails to vacate the rental premises by 1:00 p.m. on November 30, 2014. The landlord is provided with this Order in the above terms and the tenant must be served with this Order in the event that the tenant does not vacate the premises by 1:00 p.m. on November 30, 2014. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 2, 2014

Residential Tenancy Branch

